

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
3 MARK C. SCARSI, U.S. DISTRICT JUDGE
4

5 NETLIST, INC.,)
6)
7 Plaintiff,)
8 vs.) 8:20-CV-993-MCS
9 SAMSUNG ELECTRONICS CO.,)
LTD.,)
10 Defendant.)
11 _____)
12)
13)
14)

15 REPORTER'S TRANSCRIPT OF JURY TRIAL

16 VOLUME I

17 Los Angeles, California

18 Tuesday, May 14, 2024
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21 _____
22 AMY DIAZ, RPR, CRR, FCRR
23 Federal Official Reporter
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115:30:08 A. Well, I -- I had a number of calls with Dr. Jeon and
215:30:16 Kenny Han as to how to proceed beyond that. And they -- they
315:30:25 explained to me that they wanted a different structure, which
415:30:28 is, this is still too large of a sum. Instead, we will
515:30:35 supply you -- we will provide you with a supply guarantee for
615:30:37 memory products.

715:30:43 Q. And was Netlist interested in making that type of
815:30:46 arrangement?

915:30:46 A. Yes, we were.

1015:30:47 Q. Why?

1115:30:47 A. Well, in order to become -- as I said before, in order to
1215:30:52 become a real products company. We had high-end products,
1315:30:56 Samsung had main stream products. To become a one-stop shop
1415:31:01 in a real product company, that supply would be valuable to
1515:31:05 us.

1615:31:05 Q. Who did you have those discussions with?

1715:31:07 A. With Dr. Jeon and Kenny Han.

1815:31:11 Q. Did Samsung make any statements about whether there would
1915:31:16 be limits on the product supply in these negotiations?

2015:31:19 A. No.

2115:31:19 Q. Did Samsung's president, Dr. Jeon, know about your work
2215:31:27 at LG memory?

2315:31:28 A. Yes. Yeah, he -- we were colleagues back at LG.

2415:31:36 Q. Was he aware of the LG procedure of patent license for
2515:31:41 supply?

115:31:41 A. Yes. All of the executives at LG knew. And it wasn't an
215:31:45 uncommon practice in the industry.

315:31:48 Q. I want to show you a document that's already been in
415:31:51 evidence. This is the term sheet that was proposed by
515:31:55 Samsung in response.

615:31:56 What was the bottom part of the term sheet?

715:31:58 A. Supply of products on terms to be negotiated.

815:32:04 Q. And it uses the phrase "consideration." That is jargon
915:32:08 again. What is consideration?

1015:32:08 A. Consideration is the value that Samsung is willing to
1115:32:14 provide Netlist in this agreement.

1215:32:16 Q. And for the jury, if they want to look at this, this is
1315:32:19 Exhibit 102, is that correct?

1415:32:20 A. Yes.

1515:32:21 Q. And did Samsung in its cover e-mail make a statement
1615:32:26 about what the impact of the product supply would be?

1715:32:28 A. Yes. This is -- yes. I mean, this -- Kyuhan Han, he
1815:32:38 wrote an e-mail to us, copying Mr. Lee. He says: Finally,
1915:32:46 we hope the supply of products, NAND, DRAM and NDNF related
2015:32:51 chips that is will help enable your vision of being a
2115:32:55 products company.

2215:32:55 Q. Did he make any other statements?

2315:32:58 A. I believe he said that this proposal that they are
2415:33:03 making, Samsung's making to Netlist, will enable Netlist to
2515:33:07 expand its business.

115:33:09 Q. Were there any statements in either the term sheet or in
215:33:13 this e-mail that it would be limited to the joint development
315:33:16 project?

415:33:16 A. No.

515:33:17 Q. Going back to the term sheet, it says, on conditions to
615:33:23 be negotiated. What were the conditions that were ultimately
715:33:27 negotiated?

815:33:28 A. Well, it is what ended up in the final binding contract,
915:33:33 the JDLA.

1015:33:34 Q. And is this -- are those the terms?

1115:33:37 A. Yes. Samsung will supply NAND and DRAM products to
1215:33:44 Netlist on Netlist's request at a competitive price.

1315:33:47 Q. After Samsung refused to comply with its obligations,
1415:33:50 what steps did you take to secure alternative long-term
1515:33:54 supply?

1615:33:54 A. Well, we -- we work with and contracted with SK Hynix for
1715:34:04 a license to our patents for a stable supply of SK Hynix
1815:34:12 products back to us.

1915:34:12 Q. Who is SK Hynix?

2015:34:14 A. SK Hynix, after Samsung, is the second largest memory
2115:34:18 manufacturer in the world.

2215:34:19 Q. Was SK Hynix using Netlist's patents?

2315:34:25 A. They were.

2415:34:25 Q. How much product supply did SK Hynix provide?

2515:34:29 MR. SNYDER: Objection, Your Honor, best evidence

115:45:06 THE COURT: Please proceed.

215:45:06 BY MR. SHEASBY:

315:45:16 Q. I want to turn now and speak about the positions that
415:45:21 Samsung has taken in this litigation.

515:45:24 And if I can go to slide 62. It says, Samsung's
615:45:30 position as you understand it is that the NAND and DRAM
715:45:34 supply is limited to chips for use in the joint development
815:45:37 project.

915:45:38 Is that your understanding?

1015:45:39 A. That is my understanding that that is their position.

1115:45:43 Q. Was that position ever expressed to you by the president
1215:45:49 of Samsung memory, the executive vice president of Samsung
1315:45:53 memory, Jung-Bae Lee or Kyung Han who negotiated it?

1415:45:59 A. No one ever did that.

1515:46:01 Q. And just so the record is clear, do you have an
1615:46:04 understanding what Samsung's position is regarding the scope
1715:46:07 of their rights under the patent license versus the scope of
1815:46:11 their supply obligation?

1915:46:12 A. Yes. Samsung's position is that they have a license, a
2015:46:21 permission to use any of our patents for any of their
2115:46:25 products, not just the joint development project.

2215:46:31 But when it comes to their supply obligation to us,
2315:46:36 it's limited to the joint development project or the product.

2415:46:40 Q. I want to show you a passage from the agreement that
2515:46:43 shows the joint development project. This is Exhibit 47 at